

May 13, 2022

Hon. Emily Mendrala
Deputy Assistant Secretary
Bureau of Western Hemisphere Affairs
U.S. Department of State
2201 C Street NW
Room 6262
Washington, DC 20520
mendralaem@state.gov

Asst. Secretary Annie Petsonk
Principal Deputy Assistant Secretary
For Aviation and International Affairs
Office of International Aviation
Department of Transportation
1200 New Jersey Avenue, SE, 8th Floor
Washington, DC 20590
carol.petsonk@dot.gov

Re: Lifting the Prohibition on U.S. Air Carrier Service to International Airports in Cuba Outside of José Martí International Airport (HAV) in Havana, DOT-OST-2020-0129

Dear Deputy Assistant Secretary Mendrala and Assistant Secretary Petsonk:

In late 2019 and early 2020, then Secretary of Transportation Elaine Chao at the request of then Secretary of State Mike Pompeo issued notices prohibiting first U.S. scheduled air carriers and subsequently U.S. public charter operators from serving any of the nine international airports in Cuba (collectively, the “Provinces”) other than José Martí International Airport (HAV) in Havana.¹ The prior Administration intended “[t]o strengthen the impact of the Administration’s policy of applying economic pressure on the Cuban regime to respect human rights and fundamental freedoms for all in Cuba and to cease its unconscionable support for the illegitimate and totalitarian regime of former President Maduro in Venezuela....”² In the more than two years since, it has become evident that the prior Administration’s policy has been ineffective.

In response to the prohibition of scheduled and public charter flights to the Provinces, airlines of third countries introduced and boosted service to Cuba from their respective hubs.³ These capacity increases have facilitated the transportation of U.S.-originating passengers over those hubs to both the Provinces and Havana itself. While restrictions imposed due to the COVID-19 pandemic suppressed capacity to Cuba beginning in March of 2020, the lifting of pandemic restrictions has corresponded with a dramatic increase in foreign airline capacity to the Provinces in 2022. Instead of achieving the Administration’s goals, iAero and CSPs Aerocuba, Cubazul, Havana Air, Invicta and Xael respectfully submit that the primary impact of the policy has been to harm U.S. airlines to the benefit of foreign airlines. The undersigned respectfully request that the prohibition on the public charter flights and scheduled service to the Provinces be lifted without delay.

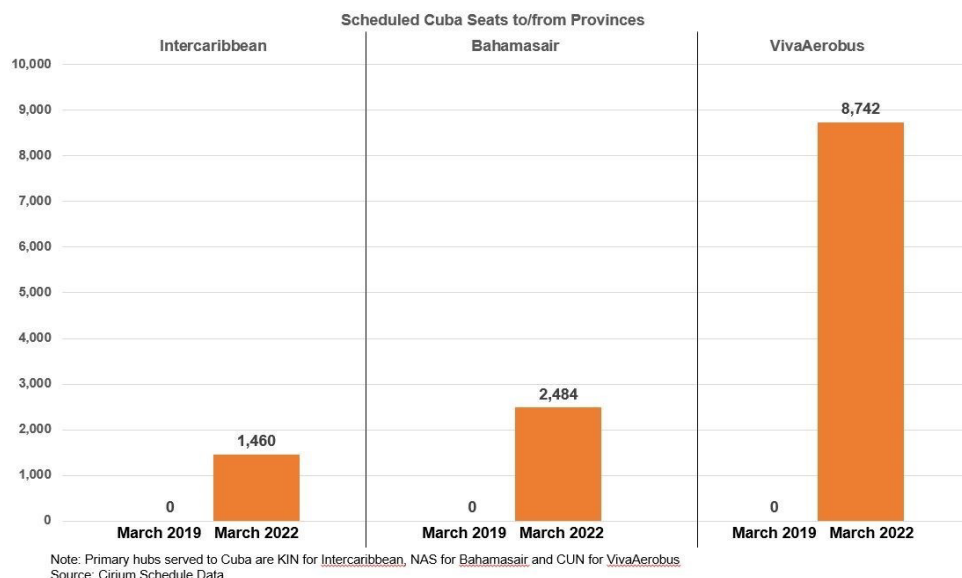
¹ The nine international airports in Cuba other than HAV include: the Ignacio Agramonte International Airport in Camagüey (CMW); the Jardines del Rey Airport in Cayo Coco (CCC); the Vilo Acuña Airport in Cayo Largo (CYO); the Jaime González Airport in Cienfuegos (CFG); the Frank País Airport in Holguín (HOG); the Sierra Maestra Airport in Manzanillo (MZO); the Juan Gualberto Gómez Airport in Matanzas (VRA); the Abel Santamaría Airport in Santa Clara (SNU); and the Antonio Maceo Airport in Santiago de Cuba (SCU) (collectively, the “Provinces”).

² Notice, DOT-OST-2020-0011 (Jan. 10, 2020) at 1 (hereinafter, the “Charter Suspension Notice”).

³ The Department’s prohibition on scheduled service to the Provinces applies only to U.S. airlines, meaning foreign airlines may operate U.S.-Provinces itineraries via the foreign airline’s homeland. See Notice, DOT-OST-2016-0021, 0226, DOT-OST-1998-20 (issued Oct. 25, 2019) (hereinafter, the “Scheduled Suspension Notice”). However, the Charter Suspension Notice applies to both U.S. and foreign airlines.

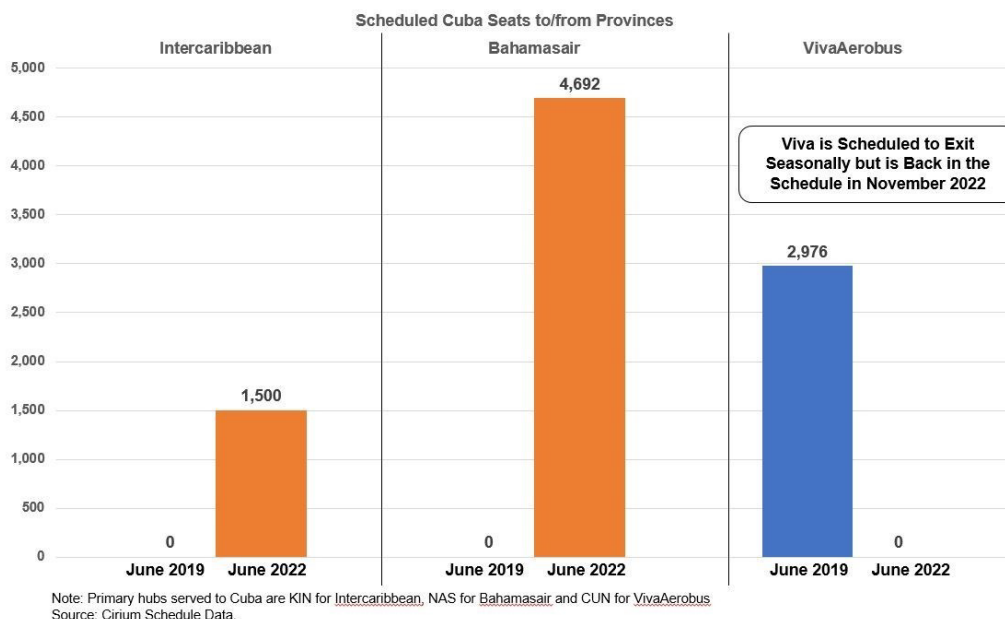
Foreign airlines have jumped at the opportunity created by the U.S. Government's prohibition of scheduled and public charter service to the Provinces. In particular, Bahamasair has increased Cuba service from its hub in Nassau, Bahamas (NAS); InterCaribbean has increased capacity from Kingston, Jamaica (KIN); and VivaAerobus has increased capacity from Cancun, Mexico (CUN). None of these airlines served the Provinces in March 2019, but all of them have introduced significant capacity in March 2022 as depicted in the chart below:

March 2022 Bahamasair, InterCaribbean and VivaAerobus Seats Between Their Hubs and the Provinces Are Up Between 1,400 and Over 8,700 Compared to March 2019

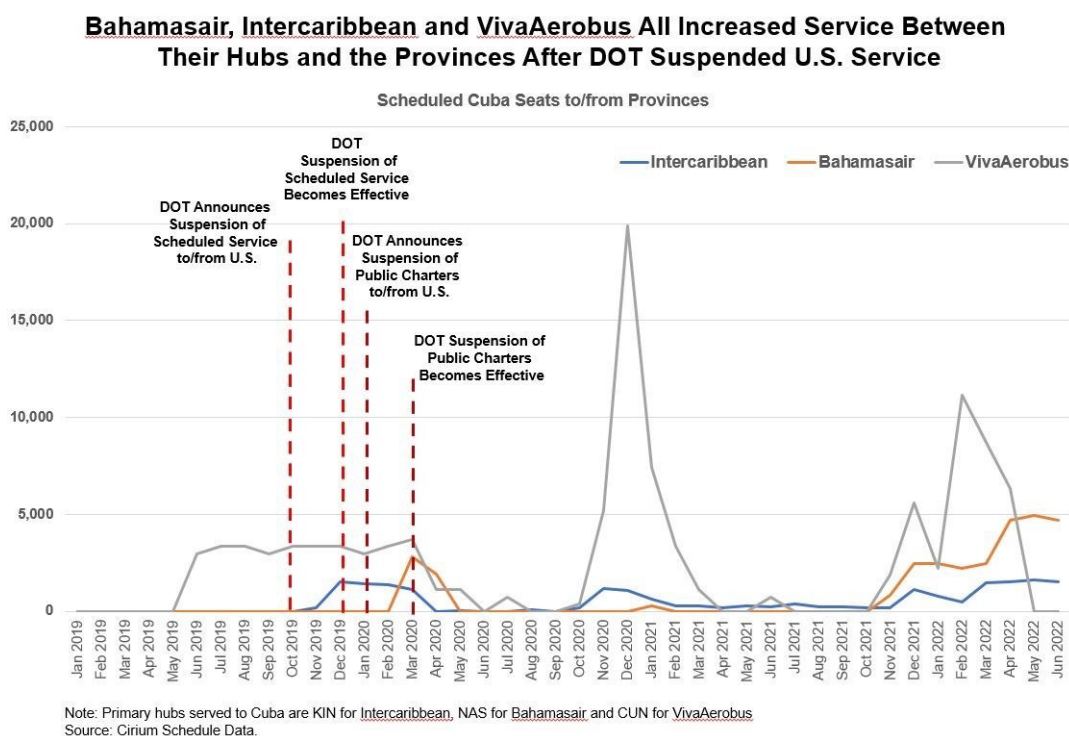


If June 2019 is used as the pre-COVID and pre-restriction benchmark, the results are similar with significant net capacity increases from foreign airlines.

June 2022 Bahamasair and InterCaribbean Seats Between Their Hubs and the Provinces Are Up Between 1,500 and Over 4,600 Compared to June 2019



Although the data does not reveal how many passengers will use this additional foreign airline capacity to travel from the United States to Cuba,⁴ the increase in capacity is undeniable. Indeed, the phenomenon is observable over time as foreign airline capacity increases in reaction to the U.S. restrictions and when pandemic restrictions abate:



iAero does not fault the foreign airlines for seizing the opportunity created by the U.S. restrictions nor the U.S. passengers seeking, primarily, to visit friends and family. Travel to the Provinces from Havana can be difficult and expensive using ground transportation. However, the schedule data demonstrates that the policy is failing to achieve its objective of “send[ing] a clear message to the Cuban government that the United States is continuing to increase economic pressure on the regime in response to its ongoing repression of the Cuban people and support for Maduro.”⁵ The policy is not preventing travel to Cuba. It’s rerouting travel to the detriment of U.S. airlines and public charter operators – and to the benefit of foreign airlines.

Prior to the Obama Administration’s reestablishing of diplomatic relations with Cuba, it was an open secret that many U.S. travelers circumvented travel restrictions by flying on foreign airlines via those airlines’ home countries. Such clandestine activities are no longer needed as certain categories of U.S. travelers now are authorized to travel to Cuba legally. However, the prohibition on scheduled and charter service to the Provinces has, now, driven legitimate U.S. travelers to utilize foreign airlines at the expense of U.S. airlines and public charter operators.

The harm to U.S. airlines has been significant. Scheduled airlines were forced to cease all service to the provinces on December 10, 2019.⁶ In fact, JetBlue and American operated a combined 57

⁴ On information and belief, iAero understands that many U.S.-originating passengers purchase interline itineraries to the Provinces frequently through the use of travel agencies.

⁵ Charter Suspension Notice at 3.

⁶ Scheduled Suspension Notice at 1.

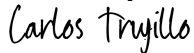
weekly roundtrips to the Provinces before the order came into effect⁷. This action was a temporary boon for U.S. charter airlines as public charter service became the only way to reach the Provinces non-stop from the U.S. The Charter Suspension Notice closed this loophole, and U.S. charter airlines and their charter operator customers lost significant business. Indeed, in the year prior to the effective date of scheduled service suspension to the Provinces, iAero operated 1,787 flights to the Provinces – nearly as many as the 1,861 it operated to Havana.⁸ That business has now dropped to 0.

Despite the noble intentions of the policy, experience shows that it has not served its intended purpose. Instead, it has only served to harm U.S. airlines, U.S. public charter operators, their respective employees and the Cuban Americans seeking to visit their family in the portions of Cuba outside Havana. iAero respectfully requests that the policies be withdrawn and that scheduled and public charter service to the Provinces be permitted once again.

Respectfully submitted,



Jeff Conry
President
iAero Airways



Carlos Trujillo
President
Cuba Charter Services, LLC d/b/a Aerocuba



Monica Perez
President
Cubazul Travel Services, Inc.



Mercy Casals
President
Xael Charters, Inc.



Mildred Diaz
President
Invicta Group Services

cc: Brett Kruger, DOT (Brett.Kruger@dot.gov)
Joe Semrad, DOS (SemradJ@state.gov)
Angel Rodriguez, DOS (RodriguezA2@state.gov)

⁷ Cirium Schedule Data, November 2019. American served CMW, HOG, SCU, SNU and VRA. JetBlue served CMW, HOG and SNU.

⁸ Motion of iAero Airways for Modification of U.S.-Havana Charter Flight Allotment Procedures, DOT-OST-2020-0011 (Oct. 27, 2020) at 5.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served this 13th day of May 2022 via email transmission on the following:

Air Carrier/Operator	Name	Email Address
Aerocuba, Cubazul,	Jason E. Maddux	jmaddux@ggh-airlaw.com
Allegiant Air	Aaron Goerlich	agoerlich@ggh-airlaw.com
American Airlines	Robert Wirick	robert.wirick@aa.com
American Airlines	John Williams	john.b.williams@aa.com
Caribbean Sun Airlines, Inc. d/b/a World Atlantic Airlines	John R. Mietus, Jr.	john@mietuslaw.com
Cuba Travel Services; World Air Charter	Lonnie Anne Pera	lpera@kmazuckert.com
Delta Air Lines	Christopher Walker	chris.walker@delta.com
Delta Air Lines	Steven Seiden	steven.seiden@delta.com
Federal Express	Brian Hedberg	brian.hedberg@fedex.com
Federal Express	Sandra Lunsford	slundsford@fedex.com
Global Crossing Airlines, Inc.	Mark Schneider	Masv35@aol.com
HavanaAir	Mark Elias	mark@havanaair.com
Icelandair	Jonathan Fuchs	jonathan@icelandair.is
IBC Airways, Inc.	Drew M. Derco	dderco@eckertseamans.com
IBC Airways, Inc.	Alexander T. Marriott	amarriott@eckertseamans.com
Invicta Group Services, Inc. d/b/a Invicta Air, JetBlue	Drew M. Derco	dderco@eckertseamans.com
Invicta Group Services, Inc. d/b/a Invicta Air, JetBlue	Evelyn D. Sahr	esahr@eckertseamans.com
JetBlue	Reese Davidson	reese.davidson@jetblue.com
JetBlue	Robert Land	robert.land@jetblue.com
Southwest	Robert Kneisley	bobkneisleyllc@gmail.com
Southwest	Leslie Abbott	leslie.abbott@wnco.com
Superior Air	Superior Air	anmartsuperiortravel@yahoo.com
United Airlines	Steve Morrissey	steve.morrissey@united.com
United Airlines	Daniel Weiss	dan.weiss@united.com
Xael Charters	Josh Romanow	romanow@pillsburylaw.com
DOT	Brett Kruger	brett.kruger@dot.gov
	Info	info@airlineinfo.com

/s/ Erin Combs _____